

REMARKS

Claims 1-32 are pending. Claims 1-32 remain in the case for reconsideration. Reconsideration is requested. No new subject matter has been added.

Claim Rejections – 35 U.S.C. § 101

Claims 27-32 are rejected under 35 U.S.C. § 101 as being directed to computer software. The Examiner states that software does not fall into any category of statutory subject matter. The rejection is respectfully traversed. See *In re Allapat*, 33 F.3d 1526 (Fed. Cir. 1994). However, to expedite the application, claims 27-32 have been rewritten in an alternative form that should be acceptable by the Examiner.

Claim Rejections – 35 U.S.C. § 102

Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Thornton et al. (US 6,363,065) or Ho (US 6,452,922) or Wellard et al. (US 6,510,219). A declaration is submitted with this Office Action response under 37 C.F.R. 1.131. The included declaration swears back of the Thornton et al. and Wellard et al references. Therefore, these two references should not be used for rejecting the present claims under 35 U.S.C. 102(e).

The Ho reference does not suggest establishing a circuit switched fall-back call mid-call of the VoIP call as specified in claims 1, 12, 20 and 27. Ho either sets up a VoIP call or a PSTN call depending on the QoS of the IP network. However, Ho does not redirect an already established VoIP call over a PSTN connection while the VoIP call is in mid-call. See Column 2, lines 66-Col. 3, lines 2; and Col. 3, lines 24-45.

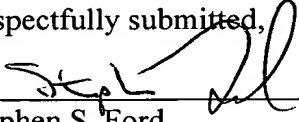
Conversely, claim 1 states establishing a Voice over IP (VoIP) call over a VoIP network, monitoring quality of service on the VoIP network during the VoIP call, setting up a fallback call over a circuit switched network during the VoIP call when the monitored quality of service of the VoIP network degrades, cross connecting the incoming call to both the fallback call and the VoIP call during midcall of the VoIP call after the fallback call has been setup, and redirecting the incoming call from the currently established VoIP call to the fallback call.

For the reasons state above claims 1-32 are allowable under 35 U.S.C. 102(e) over Thornton et al., Ho, and Wellard et al.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-32 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,



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